

**To:** Hull, George[Hull.George@epa.gov]  
**From:** POLITICO Pro Energy  
**Sent:** Thur 8/13/2015 9:51:07 AM  
**Subject:** Morning Energy, presented by Chevron: EPA stops work on other mines, tailing facilities — Rubio: Spill shows 'arrogance' — U.S. cash crunch may rattle global climate deal

By Alex Guillén | 8/13/15 5:49 AM EDT

*With help from Elana Schor and Darius Dixon*

### **McCARTHY ORDERS STOP ON MINE WORK FOLLOWING SPILL: EPA**

Administrator Gina McCarthy has ordered the agency to halt all field investigation work at mines and tailings facilities, except for cases of "imminent risk," pending an investigation of its accidental release of 3 million gallons of polluted water from an abandoned mine into Colorado's Animas River. "We are in the process of initiating an independent assessment by a sister federal agency or another external entity to examine the factors that led to last week's incident," McCarthy wrote in her order to regional officials. "Based on the outcome from that assessment, we will determine what actions may be necessary to avoid similar incidents at other sites." McCarthy added that EPA is looking for any other sites similar to the Gold King Mine to flag any immediate threats.

**Who will watch the watchers?** Investigations of the spill have already, with EPA conducting an internal investigation into the spill McCarthy promised will be rigorous. "We will hold ourselves to a higher standard than anyone else," she said in Colorado yesterday. There's also the independent inquiry McCarthy mentioned, though details remain scarce about that effort. And EPA's inspector general, at the behest of lawmakers and other entities, is mulling whether to being its own review of the incident, according to a spokesman (exclusive prediction: they're gonna look into it).

Lawmakers from Colorado and New Mexico want President Barack Obama to send some federal resources their way to help deal with the spill. Sens. Michael Bennet, Cory Gardner, Tom Udall and Martin Heinrich and Reps. Scott Tipton and Ben Ray Lujan note that it's likely the Departments of Agriculture, Interior and Health and Human Services will get involved, along with the CDC's Agency for Toxic Substances and Disease Registry. They also call for increased transparency and oversight of water testing and claims reimbursement. Read:

<http://1.usa.gov/1JUE6X8>

**RUBIO — EPA SPILL SHOWS 'ARROGANCE':** The spill has made its way into the presidential race. Republican presidential candidate Marco Rubio said yesterday that the Animas River spill was caused by "the incompetence of the EPA." Farmers in the area may lose their crops if they can't use river water for irrigation, the Florida senator said, according to a transcript of Rubio's "Hugh Hewitt Show" appearance circulated by his campaign. The bigger problem is that EPA is "completely unresponsive," Rubio added, echoing a complaint from some local residents and state officials. "They clam up. So it's not just the crisis they've created. It's their response to it that belies arrogance and this notion that, 'Yea, we're sorry it happened but we don't need to give you any more information because we're the EPA and you can't do anything to us.' So I think it's both incompetence and arrogance at play."

**Boehner weighs in:** House Speaker John Boehner reiterates that lawmakers will be looking into the spill. “The House will continue to monitor the situation and the appropriate committees will conduct rigorous oversight to make sure the administration is assessing the damage the EPA has caused and taking action to clean it up. Now that his EPA has accepted full responsibility, I expect President Obama to demand full accountability for what happened here.”

**A PICTURE SAYS A THOUSAND WORDS:** EPA posted some snapshots of McCarthy’s trip, which included looking at water, talking to people and struggling to see the press over a too-tall podium (“Next time I’ll have a little box to stand on,” she promised). <http://1.usa.gov/1h49ozU>

**CLEANUP COMPANY GOT HUNDREDS OF MILLIONS IN CONTRACTS FROM EPA:** The Wall Street Journal takes a look at the contractor working on the mine cleanup, Missouri-based Environmental Restoration LLC. “Environmental Restoration is one of the largest EPA emergency cleanup contractors. It is the main provider for the EPA’s emergency cleanup and rapid response needs in the region that covers Colorado, as well as in several other parts of the country. ... From October 2007 through this month, Environmental Restoration has been awarded \$381 million in federal contracts, according to government procurement data compiled on USAspending.gov.” WSJ: <http://on.wsj.com/1L6GR6k>

**Mark your calendar:** The Journal also notes the Senate Environment and Public Works Committee will hold a hearing on the spill when Congress returns in September.

**HAPPY THURSDAY** and welcome to Morning Energy, where we recommend starting your day with Jefferson Starship’s 1979 hit “Jane”: <https://youtu.be/sXmrMMYpQL4>. It’s Elana Schor’s turn at the helm, so send her energy news at [eschor@politico.com](mailto:eschor@politico.com), and follow on Twitter [@alexsguillen](#), [@eschor](#), [@Morning\\_Energy](#) and [@POLITICOPro](#).

**REPUBLICANS SAY McCARTHY GAVE FALSE TESTIMONY, HINT AT CRIMINAL PROSECUTION:** House Science Committee Republicans have a few follow-up questions for McCarthy from a July 9 hearing (if you need a refresher: <http://politico.pro/1hyOmcx>). More precisely, the lawmakers are pretty sure that some of her answers were “false and misleading,” and they give her the chance to respond to that allegation “prior to further investigation.” The eight-page letter includes a litany of questions that touch on data used in EPA’s Waters of the United States rule; whether states will be held accountable for ozone emissions outside their control; the connection between ozone and asthma; and withholding transportation funding for noncompliance. The letter notes that witnesses who lie to Congress “may be subject to criminal liability.” An EPA spokeswoman said the agency will review and respond to the letter. Read: <http://1.usa.gov/1DO5RiX>

**Do not pass go, do not collect \$200:** A committee aide said that though the letter cites the specific part of the U.S. Code that deals with lying to Congress, there are no plans right now to ask the Justice Department to intervene. “We are providing an opportunity for her to explain discrepancies and correct the record if she deems appropriate, or she can provide additional insight to support her responses,” the aide said.

**\*\* A message from Chevron:** Congratulations to the winners of the first-ever US2020 STEM Mentoring Awards. Chevron is proud to be a Co-sponsor of the award, and to recognize the mentors who are helping cultivate the next generation of STEM professionals. See how Chevron supports America's future innovators: <http://tinyurl.com/ogv5ygk> \*\*

**U.S. CASH CRUNCH MAY RATTLE GLOBAL DEAL:** The global climate change agreement that President Barack Obama hopes to make a key part of his legacy may not materialize if the U.S. and the rest of the industrialized world can't cough up enough cash. And right now, money from Washington is in short supply. While Republicans in Congress are largely unable to stop EPA from implementing its aggressive plans to cut U.S. emissions, they have so far been able to block the international climate funding that would help secure a deal in Paris later this year. Andrew Restuccia has the story: <http://politico.pro/1L7BnZg>

**AT LEAST THEY DON'T WANT TO BLOT OUT THE SUN:** Senate Minority Leader Harry Reid lashed Wednesday out at one of his favorite targets again, the Koch brothers, this time connecting them to anti-rooftop solar campaigns. "The Koch brothers are worth more than 135 million Americans combined," the soon-to-retire Democrat told the Las Vegas Sun. "Why are they interested in stopping rooftop solar? It hurts their bottom line — their tar sands project in Canada. Their coal, oil and gas here in America ... NV Energy is part of it ... Their bottom line is money, profits." <http://bit.ly/1DO1ILY>

**Speaking of rooftop solar:** The cost of distributed solar dropped another 10 to 20 percent in 2014, depending on the size, according to a new report from the Berkeley National Laboratory. That's the "fifth consecutive year of significant price reductions," lead author Galen Barbose said. And prices continued to drop in the first half of this year, by between 6 and 13 percent. The report: <http://1.usa.gov/1P7EC3C>

**DEPT. OF GOOD TIMING, ARCTIC EDITION:** The Interior Department is set to decide any day now on an expanded permit for Shell to tap oil and gas-bearing zones in the Arctic, and Greenpeace teamed up with Oil Change International today for a report that reads like a summation of the climate argument against letting the company continue to drill in coastal Alaska. If it's any consolation to Shell (which it isn't), the greens want to see the entire region stay off limits to any oil company. "As the world begins to grapple with how to divide up a limited carbon budget, there are some fossil fuels that will not make the cut no matter how the budget is split," they write. Check out the full report here: <http://politico.pro/1PlxAJ5>

**CALIFORNIA PANEL DROPS DOUGH ON FUEL CELL, ELECTRIC VEHICLES:** Along with new standards aimed at cutting the water flow of showerheads installed across California, the state's Energy Commission yesterday also green-lit a number of small energy projects. The CEC approved a \$2.4 million grant to build seven zero-emission fuel-cell freight-scale trucks to haul cargo at ports in Long Beach and Los Angeles. Both are ranked in the top 10 busiest ports in the country by tonnage, according to DOT. The commission also signed off on \$1.2 million grant to expand electric vehicle use at L.A. Air Force Base with hopes of applying vehicle-to-grid tech for home use. Out of the same program, CEC funded a half a million dollar advanced vehicle technology apprenticeship. Through its conservation accounts, the board also approved a one-percent-interest \$1.8 million loan to the city of Santa Cruz for the installation of

more efficient lighting, and HVAC systems. And Montague Elementary School District received a zero-interest loan of more than \$400,000 to do the same, in addition to installing a 40-kW photovoltaic system at a school. More info: <http://bit.ly/1hyTQE4>

**Throwing shade (balls):** As part of LA's battle with drought, the city has dropped 100 million "shade balls" into its major reservoir. The 4-inch plastic balls are meant to prevent some 300 million gallons of water from evaporating annually, and can also help combat issues like algae and birds. Bloomberg has more: <http://bloom.bg/1J2q5py>. And don't miss video of Mayor Eric Garcetti releasing the last of the balls into the water: <http://on.fb.me/1MoAZst>

**CLEARING THE AIR:** A U.S. Chamber of Commerce spokesman wrote in to rebut yesterday's item that said EPA has never "withheld" highway funding for areas that don't meet air quality standards. ME was referring to formal highway sanctions imposed on states that fail to write or implement a plan to address air pollutants like ozone, a power granted the agency under the Clean Air Act. EPA has never taken such a draconian step, and an agency spokeswoman said it won't withhold highway money from areas that write a plan and take "good faith" steps to implement it. But the Chamber says the agency has caused temporary funding delays because of "conformity lapses," in which an area lacks an approved transportation plan or transportation improvement program, as required by Section 176(c) of the Clean Air Act.

Lapses last as little as one day or as long as several years, delaying some projects and possibly increasing costs by forcing planning efforts to be re-done. A May Congressional Research Service report (<http://bit.ly/1HHbE4M>) highlights one of the more significant lapses, when Atlanta in the late 1990s lapsed for two years, delaying \$700 million in projects. Still, EPA has only rarely applied these kinds of sanctions, and experts say the penalty doesn't necessarily add costs if an area has no applicable transportation projects underway.

## QUICK HITS

— Some Bakken drillers could handle \$30 oil. Bloomberg: <http://bit.ly/1h4BJpB>

— A federal judge approves a \$5 million agreement to end a lawsuit over the 2013 Mayflower pipeline spill. AP: <http://bit.ly/1UDBi3Q>

— North Carolina regulators push back against an attempt to close several coal ash lawsuits. Charlotte Observer: <http://bit.ly/1hySnxB>

**THAT'S ALL FOR ME.** Sunny, high near 84.

**\*\* A message from Chevron:** Congratulations to the winners of the first-ever US2020 STEM Mentoring Awards. Chevron is proud to be a Co-sponsor of the award, and to recognize the mentors who are helping cultivate the next generation of STEM professionals. See how Chevron supports America's future innovators: <http://tinyurl.com/q9m2a39> \*\*

**Stories from POLITICO Pro**

House GOP turns up heat on EPA's McCarthy

U.S. cash crunch may rattle global climate deal

## **House GOP turns up heat on EPA's McCarthy back**

By Alex Guillén | 7/9/15 3:43 PM EDT

To Rep. Frank Lucas, President Barack Obama is a “king” whose environmental agenda must be defeated by Congress in order to protect the public.

That didn't go far enough for Illinois Republican Randy Hultgren, who said Thursday that EPA Administrator Gina McCarthy should act as a partner to the states on environmental rules, not a “Palpatine,” referring to the evil emperor in the “Star Wars” saga.

The epithets came at a House Science Committee hearing with McCarthy, who, although no stranger to aggressive questioning from Republicans in Congress, appeared to grow frustrated at times. She did draw some support from Democrat Don Beyer, who complained of a “combative” attitude from the GOP members.

The long-running tensions over EPA regulations were of full display at the hearing, with Republicans repeating charges that EPA was shielding data used to write contentious regulations — and expressing doubts about that the agency's position that only two of more than 6,000 text messages sent by McCarthy addressed EPA issues, and the rest were personal or about non-substantive issues like scheduling.

Republicans grilled McCarthy over EPA's Waters of the United States jurisdictional rule, eventually prompting McCarthy to mutter, “Oh Lord” when yet another lawmaker brought up the issue of whether the agency would regulate ditches at the three-hour-long hearing.

And Rep. Jim Bridenstine (R-Okla.) argued that the administration's power to withhold federal highway funding for areas not in compliance with standards for ozone and other pollutants amounted to “federal bullying” — though McCarthy countered that the penalty was authorized by the Clean Air Act, not a regulation, and that it had never been used.

But it was the EPA's stance not to make public some raw scientific data used to justify regulations that truly irked Republicans.

“There is no good reason why other scientists can't review it,” committee Chairman Lamar Smith (R-Texas) said.

EPA has long argued that it cannot hand over data demanded by lawmakers because the information would violate the privacy of individuals involved in the studies, and McCarthy said that agency is not in possession of much of the data because the studies were conducted by other federal agencies or private researchers.

The Republicans remained unpersuaded, alleging that the failure to reveal that data was indicative of the problems with EPA's rule-making process.

"I am a physician and a scientist and I would appreciate any raw data you could give me because I can interpret them and I can certainly make my own decisions," said Rep. Ralph Lee Abraham (R-La.).

Lucas, the former Agriculture Committee chairman, said that EPA may believe it is helping Americans with its environmental regulations, but that ultimately the economic harm was too great.

"We in this committee, and we in Congress, serve a very important role going all the way back to our predecessors in parliament on the other side of the ocean. Our responsibility is to protect the citizens from the king and his government," Lucas said to a visibly amused McCarthy.

"You are the president's administrator," he continued. "It's our responsibility to make sure that our constituents' interests are well taken care of and that the king, using an old term, remembers the public."

The Constitution, upon which EPA's authority rested, also "left Congress primarily responsible to watch out directly for the interests of the American people because they vote for us," Dana Rohrabacher (R-Calif.) said.

"Sensitive information not given to the people elected by the voters of this country is an insult to the people, to our Constitution, to everything this country is supposed to be about in terms of freedom, responsibility, openness of government, etc.," he added.[back](#)

## **U.S. cash crunch may rattle global climate deal [back](#)**

By Andrew Restuccia | 8/13/15 5:00 AM EDT

The global climate change agreement that President Barack Obama hopes to make a key part of his legacy may not materialize if the U.S. and the rest of the industrialized world can't cough up enough cash.

And right now, money from Washington is in short supply.

While Republicans in Congress are largely unable to stop EPA from implementing its aggressive plans to cut U.S. emissions, they have so far been able to block the international climate funding that would help secure a deal in Paris later this year.

From Brazil to Malaysia, developing nations are depending on the United States and other wealthy countries to fork over billions to help them adapt to a warming planet. International negotiators and climate activists say they understand the limitations of the U.S. political system, but their patience is beginning to wane.

“It’s beyond frustrating,” said Meena Raman of the Malaysia-based Third World Network, an international nonprofit focused on the challenges facing developing countries. “The United States claims to be a world leader, but it certainly doesn’t show enough leadership.”

The international talks could easily be derailed if the United States and other developed countries don’t come to Paris with a serious plan for climate finance, said Ana Toni, the head of the Climate and Society Institute in Rio de Janeiro.

“There is clearly new leadership coming from the United States, which we obviously welcome and support,” she added. “We all have internal differences politically and nationally, but this is an international negotiation. I just really hope that internal politics will not undermine the political muscle of the United States internationally.”

With the fate of the climate talks on the line, rich countries are scrambling to come up with a litany of climate finance measures that will satisfy developing countries, while taking into account resistance at home. The Obama administration last month touted commitments from some of the largest companies in the U.S. that could send billions to the developing world over the next decade, but it remains to be seen whether that will be enough.

“The worst-case scenario we see is the talks collapsing over finance,” said Nick Mabey, chief executive of the European-based environmental analysis group E3G. “I don’t think anybody wants to take this thing to the brink, so our estimate is this will be sorted out.”

At 2009 climate change talks in Copenhagen, Denmark, developed countries set a goal of “mobilizing” \$100 billion a year in climate finance from public and private sources by 2020. Some of that money will come from the so-called Green Climate Fund, a United Nations bank charged with using wealthy nations’ money to help poor countries adapt to climate change.

But so far, rich nations haven’t agreed on a clear roadmap for reaching the \$100 billion goal — and while nearly three dozen countries have made pledges to the fund totaling more than \$10 billion, only about half have been set in stone.

Estimates of the amount of climate finance flowing from developed to developing countries vary wildly, in large part because nations haven’t agreed on exactly how to define what counts toward the \$100 billion goal. A [2014 U.N. report](#) estimated, for example, that climate finance to developing countries from 2010 to 2012 ranged from \$40 billion to \$175 billion per year. Meanwhile, [the Climate Policy Initiative](#) estimated that \$34 billion went from developed to developing countries in 2013.

Obama, for his part, has pledged \$3 billion in public money to the GCF over several years. But many Republicans in Congress have balked at the administration’s request to contribute \$500 million to the fund next year.

Because the appropriations process is one of the only ways Republicans can exert influence over the international climate talks, it’s looking unlikely that GOP lawmakers will reverse course

when budget negotiations pick up in the fall.

Administration officials say they have not given up hope that they can convince Republicans to appropriate the money, though they're quick to note that there will be other opportunities to contribute to in the future because it is a multiyear pledge.

In the meantime, the United States and other countries are focused on leveraging private climate finance to meet the \$100 billion goal. The White House, for example, last month announced that 13 large companies had agreed to cut their emissions and boost low-carbon investments in the U.S. and abroad as part of its American Business Act on Climate Pledge. Among other commitments, Bank of America said it would increase its global environmental business initiative from \$50 billion to \$125 billion by 2025; Goldman Sachs said by next year it would hit a goal of investing \$40 billion in global clean energy and committed to making larger investments by 2025.

But the uncertainty surrounding the U.S. government's commitment to the GCF is raising eyebrows in developing countries.

"I wouldn't say they're doubting the administration's seriousness because of reluctance in Congress, but they're watching with interest," said Lutz Weischer, team leader for international climate policy at Germanwatch. "It's certainly going to be a challenge in Paris if the U.S. can't say much about its GCF commitment."

Still, there are signs that diplomats around the world accept the complexities facing the Obama administration as it works to take on climate change.

"I think there's a fair amount of frustration, but I'd say it's also tempered by realism," said Steve Herz, a senior attorney for the Sierra Club's International Climate Program. "You find when you talk to people at climate conferences that people understand the U.S. political situation to a surprising degree."

Meanwhile, top officials at the U.N. and in other developed nations are increasing their efforts to forge a climate finance agreement. In late June, U.N. climate chief Christiana Figueres called the issue the "most crucial" unresolved component of an international global warming deal.

European officials are hoping to build momentum on climate finance ahead of Paris. In late July, Luxembourg, currently holding the rotating presidency of the European Council, called for an "international climate finance toolbox" that would shed light on the various public and private options for helping poor countries deal with climate change. The country called climate finance "one of the crucial elements for the success" of the climate negotiations.

Activists also took comfort from a June G-7 communique that reaffirmed the countries "strong commitment" to the \$100 billion goal and declared, "we stand ready to engage proactively in the negotiations of the finance provisions of the Paris outcome."

But exactly what kind of agreement countries can reach on climate finance remains unclear. At



the very least, developing countries want a clear road map detailing how countries plan to ramp up their climate finance over the next few years to meet the \$100 billion goal — whether that's through direct contributions from governments, from a tax on carbon emissions, through multilateral development banks or other means.

And they're also hoping that developed nations will outline a plan for scaling up climate finance after 2020. That could face opposition from some developed countries, who are wary about making those kind of long-term commitments.

But many NGOs say the scope of the climate problem demands a massive increase in financing. Janet Redman — director of the climate policy program at the Institute for Policy Studies, a U.S.-based progressive think tank — said the \$100 billion per year by 2020 goal is “an order of magnitude off of what we'll need in order to transition to a low-carbon economy and adapt to the consequences of already-locked-in climate change.”

Not only is climate finance important for helping poor countries adapt to climate change, it is also likely essential for mending the distrust that has developed between rich and poor nations over decades of failed climate talks.

Without stronger commitments, Redman said, “it's hard to see why the developing countries would trust us at all.”[back](#)

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